IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

MACA.No. 1873 of 2006()& CROSS OBJECTION

OP(MV).859/2003 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALA
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APPELLANT/3RD RESPONDENT IN THE OP(MV):

THE UNITED INDIA INSURANCE CO. LTD.,
PALAKKAD, REPRESENTED BY THE DEPUTY MANAGER,
OFFICE OF THE REGIONAL MANAGER, UNITED INDIA
INSURANCE CO. LTD., HOSPITAL ROAD, ERNAKULAM.

BY ADV. SRI.M.A.GEORGE

RESPONDENTS: PETITIONERS & RESPONDENTS 1 & 2 IN OP(MV):
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1. SONY KURIAN,
PALAMATTATHIL HOUSE, KURICHITHANAM P.O.,
KOTTAYAM DISTRICT, NOW EMPLOYED AT COUNTRY RIYATH,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER,
GEORGE KALAYAPARAYIL, MUTHOLAPURAM,ELANJI VILLAGE,
MOOVATTUPUZHA TALUK, ERNAKULAM DISTRICT.
2. ANNAKUTTY T.D.,
PALAMATTATHIL HOUSE, KURICHITHANAM P.O.,
KOTTAYAM DISTRICT.
3. V.T.SUDARSANAN, S/O.K.K.NAIR,
1/123, "SASTHA KRUPA", VAKKANADA,THACHANCODE,
ELAMBULASSERY, PALAKKAD DISTRICT.
4. SHAHIN, S/O.USMAN,
VAKKULATHIL HOUSE, PUNNAYARKULAM POST,
UPPANGAL, THRISSUR DISTRICT.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

M.A.C.A. No 1873 of 2006

&

Cross Objection

Dated: 19th December 2006

JUDGMENT

Krishnan, J.

This appeal is preferred against the award of the Claims Tribunal in O.P. (M.V) No 859 of 2003 and the Cross-objection is filed by the parents of the deceased for enhancement of the compensation.

2. The victim in this case, namely Sinse Mon Sony was a student in B.Sc Computer Science and he died on account of the road accident. Tribunal awarded a compensation of Rs 3,85,000/-. Insurance Company has come up in appeal challenging the quantum of compensation and the Cross-objection is filed by the claimants for enhancement of the compensation.

3. The facts available would reveal that deceased was a very bright student and was studying for his B. Sc Computer Science. Mark lists of the previous years were produced and the Tribunal was

satisfied about the bright prospects of the deceased if the calamity had not occurred. Tribunal took the income of Rs 5,000/- and deducted two-third and arrived at the figure of Rs 3,60,000/- towards loss of dependency. It awarded a further compensation of Rs 10,000/- for loss of love and affection, another sum of Rs 10,000/- for pain and suffering, Rs 2,000/- towards transportation and Rs 3,000/- for funeral expenses. Learned counsel for the Insurance Company would contend that the Tribunal has grossly erred in fixing the income at Rs 5,000/- and again went wrong in applying the multiplier of 18. It has to be remembered that though the Tribunal has fixed the income and applied the multiplier of 18 it had deducted two-third from the total compensation and only awarded the remaining for the loss of dependency. Even if the principle of the multiplier multiplicand system is taken into consideration and also the factum of loss of dependency after the marriage of the deceased is concerned is taken into consideration, even then we do not find that the amount award is on the higher side. Learned counsel for the respondent submitted that deceased was the only son of the appellants and they had great expectation on him and at the prime of his life he had lost the same and therefore seeks enhancement of the compensation.

There are different methods of calculation effected in various cases, but the object of the Motor Vehicles Act is to grant a just and reasonable compensation to the dependents of the victim. Parents are well employed. So it can be argued that the deceased would have reached a very high position. So taking into consideration the totality of the circumstances we feel an amount of Rs 385000 awarded as compensation is not on the higher side at all and therefore the award does not call for any interference. Taking into considreation the imponderables and other vissitudes in life we also feel that no enhancement in the amount of compensation awarded is warranted. The appeal as well as the cross objection are dismissed.

I.A.2075 of 2006 would also stand dismissed.

Sd/-

(K.S. RADHAKRISHNAN, JUDGE)

Sd/-

(M.N. KRISHNAN, JUDGE)

19/12/2006

en/ [true copy]